MONTANA LEGISLATIVE HISTORY

Chapter 375 19 95

Bill H 405 S _____ Original bill & history ____C

H. Committee on	Health Care Select		S. Committee on	Joint Health Care Select	
Hearing Date(s)	Feb 07	✓ C	Hearing Date(s)	Mar 07	✓ C
	Feb 16	✓ C		Mar 13	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Feb 17	✓ C		Mar 15	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/15	FISCAL NOTE PRINTED		
2/23	MISSED TRANSMITTAL DEADLINE DIED IN COMMITTEE		

HB 404 INTRODUCED BY MCCULLOCH

CLARIFY ALLOCATION OF PETITION SIGNATURES TO LEGISLATIVE DISTRICTS

BY REQUEST OF THE SECRETARY OF STATE

2/01	INTRODUCED		
2/01	FIRST READING		
2/01	REFERRED TO STATE ADMINISTRATION		
2/07	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED		
2/10	2ND READING PASSED	100	0
2/11	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO STATE ADMINISTRATION		
3/07	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED		
3/11	2ND READING CONCURRED AS AMENDED	39	0
3/13	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	94	1
4/03	3RD READING AMENDMENTS CONCURRED	98	1
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR CHAPTER NUMBER 374 EFFECTIVE DATE: 04/12/95		

HB 405 INTRODUCED BY T. NELSON

ALLOW THE FORMATION OF VOLUNTARY PURCHASING POOLS FOR DISABILITY INSURANCE

2/02	INTRODUCED		
2/02	FIRST READING		
2/02	REFERRED TO HEALTH CARE SELECT		
2/07	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	99	0
2/21	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO BUSINESS & INDUSTRY		
3/06	REREFERRED TO JOINT HEALTH CARE SELECT		
3/07	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/21	2ND READING CONCURRED AS AMENDED	50	0
3/22	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	97	0
4/03	3RD READING AMENDMENTS CONCURRED	99	0
4/05	SIGNED BY SPEAKER		
4/06	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		

4/12 SIGNED BY GOVERNOR
CHAPTER NUMBER 375
EFFECTIVE DATE: 10/01/95

HB 406 INTRODUCED BY COBB

REQUIRE THAT PROVIDERS SUBMIT CLEAN CLAIMS FOR REIMBURSEMENT TO MEDICAID WITHIN 90 DAYS OR LOSE REIMBURSEMENT

2/02 INTRODUCED
2/02 FIRST READING
2/02 REFERRED TO HUMAN SERVICES & AGING
2/03 FISCAL NOTE REQUESTED
2/10 HEARING
2/10 FISCAL NOTE RECEIVED
2/10 TABLED IN COMMITTEE
2/10 FISCAL NOTE PRINTED
2/23 MISSED TRANSMITTAL DEADLINE
DIED IN COMMITTEE

HB 407 INTRODUCED BY COBB

REQUIRE BOARD OF NURSING TO DELEGATE BY RULE CERTAIN NURSING TASKS TO UNLICENSED PERSONS

2/02	INTRODUCED		
2/02	FIRST READING		
2/02	REFERRED TO HUMAN SERVICES & AGING		
2/03	FISCAL NOTE REQUESTED		
2/07	FISCAL NOTE RECEIVED		
2/07	FISCAL NOTE PRINTED		
2/08	HEARING		
2/10	TABLED IN COMMITTEE		
2/16	COMMITTEE REPORT—BILL PASSED		
2/18	2ND READING PASSED	67	32
2/20	3RD READING PASSED	68	30
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/06	HEARING		
3/09	TABLED IN COMMITTEE		
3/14	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	25	25
	DIED IN COMMITTEE		

HB 408 INTRODUCED BY SLITER, ET AL.

PROVIDE FOR PAYMENT BY STATE OF COSTS AND ATTORNEY FEES OF SMALL BUSINESSES THAT PREVAIL AGAINST STATE IN CERTAIN COURT AND ADMINISTRATIVE PROCEEDINGS

2/02	INTRODUCED		
2/02	FIRST READING		
2/02	REFERRED TO BUSINESS & LABOR		
2/03	FISCAL NOTE REQUESTED		
2/08	HEARING		
2/08	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	91	9
2/18	3RD READING PASSED	86	12
	TRANSMITTED TO SENATE		
2/21	FIRST READING		

INTRODUCED BY [signature] HOUSE BILL NO. 405

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE FORMATION OF VOLUNTARY PURCHASING POOLS FOR SMALL EMPLOYER DISABILITY INSURANCE; REVISING ASSOCIATIONS ELIGIBLE TO PURCHASE GROUP DISABILITY INSURANCE POLICIES; AND AMENDING SECTION 33-22-501, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-22-501, MCA, is amended to read:

"**33-22-501. Group disability insurance defined -- eligible groups.** Group disability insurance is ~~hereby declared to be~~ that form of disability insurance covering groups of persons as defined ~~below~~ in this section, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of ~~such~~ the groups of persons and issued upon the following bases:

(1) under a policy issued to an employer or trustees of a fund established by an employer, who ~~shall~~ must be ~~deemed~~ considered the policyholder, insuring employees of ~~such~~ the employer for the benefit of persons other than the employer. The term "employees" as used ~~herein shall be deemed to include~~ in this subsection includes the officers, managers, and employees of the employer, the individual proprietor or partner if the employer is an individual proprietor or partnership, the officers, managers, and employees of subsidiary or affiliated corporations, the individual proprietors, partners, and employees of individuals and firms, if the business of the employer and ~~such~~ the individual or firm is under common control through stock ownership, contract, or otherwise. The term "employees" as used ~~herein~~ in this subsection may include retired employees. A policy issued to insure employees of a public body may provide that the term "employees" ~~shall include~~ includes elected or appointed officials. The policy may provide that the term "employees" ~~shall include~~ includes the trustees or their employees, or both, if their duties are principally connected with ~~such~~ the trusteeship.

(2) under a policy issued to an association, including a labor union, ~~which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining~~ that obtains insurance, insuring members, employees, or employees of members of the

association for the benefit of persons other than the association or its officers or trustees. The term "employees" as used ~~herein~~ in this subsection may include retired employees.

(3) under a policy issued to the trustees of a fund established by two or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subsection (2) ~~above~~, in which the trustees ~~shall be deemed~~ are considered the policyholder, to insure employees of the employers or members of the unions or of ~~such~~ the association or employees of members of ~~such~~ the association for the benefit of persons other than the employers or the unions or ~~such~~ the association. The term "employees" as used ~~herein~~ in this subsection may include the officers, managers, and employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employees" as used ~~herein~~ in this subsection may include retired employees. The policy may provide that the term "employees" ~~shall include~~ includes the trustees or their employees, or both, if their duties are principally connected with ~~such~~ the trusteeship.

(4) under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state to insure any class or classes of individuals that could be insured under ~~such~~ a group life policy;

(5) under a policy issued to a voluntary purchasing pool of small employers that is formed solely for the purpose of obtaining insurance as provided in [section 2];

(6) under a policy issued to cover any other substantially similar group ~~which~~ that, in the discretion of the commissioner, may be subject to the issuance of a group disability policy or contract."

NEW SECTION. **Section 2. Qualifications for voluntary purchasing pool for small employers.** A voluntary purchasing pool of small employers may be formed solely for the purpose of obtaining disability insurance upon compliance with the following provisions:

(1) It contains at least one thousand eligible employees.

(2) It establishes requirements for membership. However, the voluntary purchasing pool may not exclude any small employers that otherwise meet the requirements for membership on the basis of claim experience or health status.

(3) It holds an open enrollment period at least once a year during which new members can join the voluntary purchasing pool.

(4) It allows eligible employees and their dependents, upon initial enrollment and during subsequent enrollment periods, to choose among disability insurance policies or contracts offered through the group. Persons covered by a disability insurance policy or contract offered through the group that requires an enrollment period in excess of 1 year are eligible to choose among available plans upon the completion of the enrollment period.

(5) It offers coverage under all plans offered through the group to eligible employees of member small employers and to the employees' dependents. Coverage may not be limited to certain employees of member small employers except as provided in 33-22-1811(3)(c).

(6) It does not assume any risk or form self-insurance plans among its members.

(7) (a) It has the option of using the following types of rating arrangements with the disability insurance policies or contracts:

(i) Disability insurance policies or contracts offered through the voluntary purchasing pool that rate each member small employer separately are subject to the laws governing small employer health insurance.

(ii) Disability insurance policies or contracts offered through the voluntary purchasing pool that rate the entire group as a whole must charge each insured person based on a community rate within the common group, adjusted for case characteristics as permitted by the laws governing group disability insurance.

(b) At its discretion, premiums may be paid to the disability insurance policies or contracts by the voluntary purchasing pool, by member small employers, or by eligible employees and their dependents.

(8) It may not act as an agent or engage in any activities for which an insurance agent's license is required.

NEW SECTION. **Section 3. Codification instruction.** [Section 2] is intended to be codified as an integral part of Title 33, chapter 22, part 5, and the provisions of Title 33, chapter 22, part 5, apply to [section 2].

-END-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION

SELECT COMMITTEE ON HEALTH CARE

Call to Order: By **CHAIRMAN SCOTT ORR**, on February 7, 1995, at 3:10 P.M.

ROLL CALL

Members Present:
Rep. Scott J. Orr, Chairman (R)
Rep. Carley Tuss, Vice Chairman (D)
Rep. Beverly Barnhart (D)
Rep. John Johnson (D)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Thomas E. Nelson (R)
Rep. Bruce T. Simon (R)
Rep. Richard D. Simpkins (R)
Rep. Liz Smith (R)
Rep. Carolyn M. Squires (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Council
Susan Fox, Legislative Council
Vivian Reeves, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 405
Executive Action: None

{Tape: 1; Side: A; Approx. Counter: 053; Comments: This meeting was recorded on one 90-minute tape.}

HEARING ON HB 405

Opening Statement by Sponsor:

REP. TOM NELSON, HD 11, Billings Heights, said this was a free enterprise bill and would take an aggressive entrepreneur to implement and would benefit the private sector as well as provide a service to the state of Montana. It would allow for the formation of multiple, voluntary private sector health insurance

purchasing pools. He further explained the bill in written testimony. **EXHIBIT 1**

{Tape: 1; Side: A; Approx. Counter: 171; Comments: n/a.}

Proponents' Testimony:

Larry Akey, Montana Association of Insurance Underwriters and Independent Insurance Agents of Montana, said that these two associations represent approximately 1,500 insurance professionals. They both support the concept of voluntary purchasing pools. He said the theory of purchasing pools is to bring together a number of smaller employers to act in the marketplace as a large single employer, which would afford them the "clout" that a large employer has in the insurance marketplace. Such purchasing pools would be another means of providing health coverage to Montanans, and makes sense. He stressed this is an "availability" issue, because while there would be some cost savings associated with purchasing pools, they wouldn't necessary result in more affordable health insurance coverage.

Mr. Akey said purchasing pools ought to be an alternative mechanism for providing health insurance coverage, so HB 405 is the only kind of purchasing pool legislation that makes sense. It does not make sense to create a single purchasing pool based on a government monopoly or franchise that competes in the marketplace with other insurers. If the purchasing pools proposed by HB 405 can provide a better product at a lower price, then they wouldn't need to have a government-created monopoly.

He suggested the bill be amended to allow larger employers (rather than just those that fall in the 3-25 small employer health availability act) to participate in the purchasing pools. They resist the notion of extending that limit downward to include individuals in the purchasing pool. He offered to share their reasons with the committee, if they so desired.

Mr. Akey stated that the language in the bill giving eligible employees the opportunity to choose among disability insurance policies would detract from the potential cost savings, resulting in lower premiums. They believe that language should be struck so the employer retains the ability to choose among the plans that are offered.

As indicated by **REP. NELSON**, the language in subsection (8) on page 3 is confusing, and **Mr. Akey** said that for those people who are marketing disability insurance policies or contracting through the purchasing pool ought to be licensed as an insurance producer, the language should say that a pool cannot have an employee licensed as a producer offering those products to the marketplace. He thought that was a restriction that doesn't make sense. He mentioned other technical amendments they will submit prior to executive action. He urged them to look closely at this

type of legislation. Voluntary purchasing pools, as long as they are multiple, voluntary private sector pools, do have a place in the market. He asked that the committee give HB 405 with some amendments a do pass recommendation.

Steve Turkiewicz, Executive Vice President, Montana Auto Dealers Association, described their involvement in the insurance business. He said he was also representing the **Montana Association of Health Care Purchasers (MAHCP)**, a voluntary, private sector purchasing pool, which is willing and able and "chomping at the bit" to get involved in the business of creating a product that can be marketed in a broad-based purchasing pool arena. He voiced their support for HB 405 with the amendments mentioned by **REP. NELSON** and **Mr. Akey**. He said they have groups as small as three and as large as 95 and have been successful. The idea of allowing employers of different sizes to join together to gain administrative efficiency makes a lot of sense. They also agree that the choice of the plan should be at the discretion of the employer, not the employee, and they support the idea that anyone marketing these plans should be a licensed agent.

Mr. Turkiewicz mentioned they have recently hired a director for the MAHCP and introduced **Bill MacDonald** from Missoula as that new director. He said MACHP is registered with the Secretary of State's Office and are waiting for the legal framework to be defined and in place so they can make a contribution to health care reform. They would appreciate the committee's support of HB 405 as amended.

{Tape: 1; Side: A; Approx. Counter: 367; Comments: n/a.}

Frank Cote, Deputy Insurance Commissioner, State Auditor's Office, said they also agree with the concept of purchasing pools as they can provide a valuable resource in the marketplace. They also supported the amendments previously mentioned.

Sam Hubbard, Montana Health Care Authority, said the Health Care Authority was required by SB 285 to undertake an intensive study of health care purchasing pools and while HB 405 may not include all the recommendations made by their consultants and adopted by their members, they feel this would constitute an excellent first step toward putting into place a market-based cost containment strategy. He encouraged them to support this legislation.

Tom Hopgood, Health Insurance Association of America, didn't want to reiterate all the aforementioned comments, but supported the bill as amended. He said the "watch words" are that purchasing pools must be multiple rather than single; voluntary rather than mandatory; run by the private sector rather than by government; and as the amendments state, they believe the choice of the plan should be up to the employer rather than the employee. They support the bill as amended, but would resist any amendment to extend it to individuals. In reference to guaranteed issue in

the health insurance market, they don't believe that is an idea whose time has come.

Tanya Ask, Blue Cross/Blue Shield of Montana, also supported this proposal and the amendments as articulated by **Mr. Akey**. They believe the voluntary marketplace framework would allow successful purchasing pools to form.

Ron Kunik, Montana Medical Benefits Plan, said this bill has a lot of merit, however he asked for clarification on the following: 1) The requirement for 1,000 to come on board. He said they would be selling a plan that doesn't have a cost in advance. If only 750 want the plan, he thought that 75% would be a viable purchasing pool. 2) To sell a plan, they must be appointed by a company. He wondered if there would need to be changes in insurance law for an agent to market a plan if they didn't know which company would get the contract. He agreed licensing may be all that is needed, but to protect the agent, he thought that should be clarified.

Opponents' Testimony: None

Informational Testimony: None

{Tape: 1; Side: A; Approx. Counter: 502; Comments: n/a.}

Questions From Committee Members and Responses:

REP. DICK SIMPKINS asked if they are looking at a regional concept or statewide participation. **Mr. Hopgood** replied that since they would be multiple, he didn't see why they couldn't be statewide. **REP. SIMPKINS** asked how this would fit in with associations such as the Grain Growers, where they may have thousands of members. Could they join as an association group, and what other advantages would they have. **Mr. Hopgood** responded they may and they may not. They would offer one plan to an organization like the Grain Growers, but could offer more than one through more than one company, if they so choose. If they did that, they would limit the possibilities provided with a voluntary purchasing pool, because it isn't restricted to just one company.

REP. SIMPKINS asked if they would need an open enrollment period for this type of plan. **Mr. Hopgood** said that was correct. **REP. SIMPKINS** asked about adding other small businesses to the plan; would they have to stick to the open enrollment or would they just jump in. **Mr. Hopgood** said the bottom of page 2, subsection (3) on line 29-30, states the open enrollment restriction.

REP. SIMPKINS asked if they envision this type of insurance working with a Medical Savings Account, to which **Mr. Hopgood** said it would and the bill was written loosely enough to take advantage of the free market system.

{Tape: 1; Side: A; Approx. Counter: 600; Comments: n/a.}

REP. CARLEY TUSS asked **REP. NELSON** about **Mr. Kunik's** statement regarding changing insurance laws to allow this bill to proceed, and asked if that was necessary and if so, how would he propose doing that, and what insurance laws are they talking about. **REP. NELSON** replied that the law restricting what an independent agent could do, in terms of putting a plan together under this new bill, might need to be modified. If agents are selling for BC/BS or the Yellowstone Community Health Plan, for instance, they must be contracted with that company as an agent and then that company appoints them with the insurance commissioner's office.

He said they may not need to change current law, because they may be able to work something out with the companies before they recruit members. **Mr. Kunik** offered his perspective and said the way he envisioned it working is that the purchasing pools will be put out to bid to four or five companies to get the best possible rates and since they are not known at that time, they won't know which companies they will contract with.

REP. TUSS asked **Mr. Cote** to comment on this and he asked for a restatement of the question. **REP. TUSS** said the question was regarding changes in insurance law required by the bill. She wanted to know which insurance laws would need to be changed and how cumbersome that might be, and wondered about their willingness to do that.

Mr. Cote said they probably don't need to change any statutes, but since they have a purchasing pool that offers five different insurance companies' products, whoever the agent is that represents those products must be licensed and appointed by each and every one of those companies. That would be the only requirement, to make sure they get appointed with the appropriate companies.

Mr. Kunik clarified his original concern and asked if he was an agent who went out and solicited his first 1,000 members, put a program together and put it out to bid, but hadn't yet worked with any particular company, would he be violating any existing insurance laws. **Mr. Cote** asked if he was not soliciting or selling insurance, he would not be violating any laws. **Mr. Kunik** said he wouldn't need to be licensed until he went to the company for a quote, then he would require an appointment. **Mr. Cote** said the appointment would be required before they could give him the quote.

REP. SIMPKINS referred to **Mr. Akey's** proposed amendments and asked **REP. NELSON** how they are going to proceed with the amendments in time for executive action. He replied they would do what is necessary.

Closing by Sponsor:

REP. TOM NELSON closed and thanked them for a quick hearing.

{Tape: 1; Side: A; Approx. Counter: 800; Comments: n/a.}

PRESENTATION ON REINSURANCE PROGRAM

Introduction:

Claudia Clifford, State Auditor's Office, said she discussed the reinsurance program with the committee the previous week, and understood they had some questions. She said the reinsurance board held their annual meeting that day in which they heard from the public and association groups about their concerns regarding what program best suits the needs of people who are medically uninsurable. She described issues discussed at the board meeting and introduced members of the board that were present.

Informational Testimony:

Garth Trusler, member of the Montana Reinsurance Board, read a written statement to the committee. **EXHIBIT 2**

Questions From Committee Members and Responses:

REP. NELSON said some people on the reinsurance board advocated putting the high risk individuals in the comprehensive health association. He asked **Mr. Trusler** to elaborate.

Mr. Trusler said they needed to distinguish between the reinsurance mechanism and the Montana Comprehensive Health Care Association (MCHA). He said reinsurance for the small group, 3-25, is transparent to the employee and employer. Estimates outside their committee that have been quite large. They have reinsurance figures from other states' programs. The highest rates possible were used compared to Blue Cross/Blue Shield to determine the overall impact if it was charged the small group market rate, which currently is the carrier's responsibility.

{Tape: 1; Side: A; Approx. Counter: 1088; Comments: n/a.}

Mr. Trusler described the guaranteed issue bill introduced at the 1993 legislature. He explained how the rates are transparent to the employer and the employee, and the monitoring of those rates. The numbers and the cost associated with reinsurance rates are actually the smallest part of the cost.

HOUSE OF REPRESENTATIVES

Select Committee on Health Care

ROLL CALL DATE Jan. 7, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Scott Orr, Chairman	✓		
Rep. Carley Tuss, Vice Chairman	✓		
Rep. Beverly Barnhart	✓		
Rep. John Johnson	✓		
Rep. Royal Johnson	✓		
Rep. Betty Lou Kasten	✓		
Rep. Tom Nelson	✓		
Rep. Bruce Simon	✓		
Rep. Dick Simpkins	✓		
Rep. Liz Smith	✓		
Rep. Carolyn Squires	✓		

EXHIBIT 1
DATE Feb. 7, 1995
HB 405

House Bill 405

Purchasing Pools Fact Sheet

House Bill 405 allows for the formation of multiple voluntary private sector health insurance purchasing pools by doing two things:

1. The bill amends Section 33-22-501, MCA, to allow for group purchase of health insurance by employers who band together solely to obtain group buying power for purchasing health insurance. In the past employers could get together and purchase health insurance only if they had some other common interest.

2. The bill establishes a very basic framework for these pools. Some may criticize this approach for not being structured or regulatory enough, but I believe a private sector, less government approach is best.

The framework in Section Two of the bill does several things:

- insures that there are enough people involved in the pool to make it successful. 1,000 employees would mean about 2,000 people covered when you include dependents who might also take the coverage;

- follows the small group availability reforms of portability, no cancellation of an individual or group within the pool because of health or claims experience, and guaranteed issue of insurance coverage to any eligible employee within the employer groups who join; and

- allows the pool to decide how the pool group coverage will be rated, either according to the small employer availability criteria or with a community rate modified by age if the founding employers so decide.

I know there are four concerns with this bill as drafted. A couple can be taken care of right away.

1. It may appear that only small employer groups could participate in the pool. If larger groups would like to participate, I think that's fine, but the small group availability laws need to be followed, or these pools will end up as potential cherry pickers for healthy individuals only.

2. Some individuals would like to see the employer make the choice as to what coverage or coverages will be available to his or her employees, since they are contributing part of the premium.

3. It should be clarified that a purchasing pool which also negotiates favorable arrangements with health care providers should be able to reflect those cost savings in their rates. I understand and agree with that.

4. Subsection 8, on page three, says the pool may not engage in any activities for which an agent license is required. Perhaps what we may want to say is anyone marketing this program must be licensed as an agent to give pool purchasers that protection.

EXHIBIT 2
DATE Feb. 7, 1995
~~HB~~ Presentation

STATEMENT TO THE HOUSE SELECT COMMITTEE ON HEALTH CARE

FROM THE MONTANA REINSURANCE BOARD

February 7, 1995

TODAY THE BOARD FOR THE MONTANA SMALL GROUP CARRIER REINSURANCE PROGRAM HELD ITS ANNUAL MEETING. WE HEARD FROM PARTIES CONCERNED ABOUT APPROPRIATE LEVELS FOR THE REINSURANCE RATES AND WHETHER IT IS BEST TO HAVE A SYSTEM WITH GUARANTEED ISSUE POLICIES AND A REINSURANCE PROGRAM OR USE A HIGH RISK INSURANCE PROGRAM LIKE THE MONTANA COMPREHENSIVE HEALTH CARE ASSOCIATION TO PROVIDE HEALTH CARE COVERAGE FOR THE MEDICALLY UNINSURABLE. OUR BOARD TAKES THE FOLLOWING POSITION ON THESES ISSUES:

FIRST, WE BELIEVE THAT THE PREMIUM RATES SET, ONLY THIS FALL, ARE FAIR AND MID-RANGE COMPARED TO RATES WITH COMPARABLE PROGRAMS. WE WILL EVALUATE RATES AS NEEDED BASED ON THE EXPERIENCE OF THE PROGRAM.

SECOND, WE BELIEVE THAT THE REINSURANCE MECHANISM STABILIZES THE MARKET AND MINIMIZES THE COST OF GUARANTEED ISSUE. THE REINSURANCE PROGRAM ENCOURAGES INSURANCE COMPANIES TO STAY IN THE MARKET.

FURTHER, WE STRONGLY DO NOT ENDORSE ISOLATING INDIVIDUALS INTO A HIGH RISK POOL LIKE THE MCHA AS A WAY TO PROVIDE COVERAGE FOR THE MEDICALLY UNINSURABLE.

FINALLY, WE SUPPORT A STANDARD PLAN THAT HAS UNIFORM BENEFITS AND ALLOWS FOR THE CONSUMER TO COMPARISON SHOP. TO ALLOW A STANDARD PLAN WITH VARIABLE BENEFITS WOULD PROVIDE PROBLEMS FOR REINSURANCE.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Select Comm. on Hlth. Care COMMITTEE BILL NO. HB 405

DATE Feb. 7, 1995 SPONSOR(S) Nelson

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
2555 LINCOLN HILLS MISSOULA 59802 J.R. CHIPMAN				
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS INDEPENDENT INSURANCE AGENTS			✓
Steve Turkiewicz	MT. Auto Dealers Assn Ins Trust. MT Assn Health Care Purchasers			✓
Frank Cote	St. Auditor			✓
Sam Hubbard	MT Health Care Authority	HB 405		✓
Ron Kanik	MMPP			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

NEW COVERAGE." Question was called. Voice vote was taken. **The motion carried unanimously.**

Motion/Vote: REP. SIMON MOVED HB 533 DO PASS AS AMENDED. Voice vote was taken. **The motion carried 11 to 0.**

EXECUTIVE ACTION ON HB 405

Motion: REP. NELSON MOVED THAT HB 405 DO PASS.

Motion: REP. NELSON MOVED AMENDMENT #1. EXHIBIT 7

Discussion: Larry Akey, Montana Association of Life Underwriters, explained amendment #1 and stated the amendment allows large employers to participate in purchasing pools.

REP. SIMPKINS asked if there are other amendments to HB 405 as well. **CHAIRMAN ORR** stated he wasn't aware of any.

REP. R. JOHNSON inquired if there were anyone in the room who disagreed with these amendments. **REP. R. JOHNSON** requested that **Ed Grogan** make a statement.

Mr. Grogan, Montana Medical Benefit Plan, Montana Medical Benefit Trust, and the Montana business and Health Alliance, indicated that he did not have a copy of the amendment, so he did not know if he disagreed or not. (He was given a copy of the amendment). He indicated that at one time there was discussion about changing the number from 1000 to a smaller figure because of Montana's lack of population density.

REP. TUSS indicated that **Mr. Grogan** was referring to line 26, page 2, of HB 405. She said he is talking about changing it to a smaller number, but it should be changed it to a larger number for more inclusion.

REP. R. JOHNSON inquired if **Mr. Grogan's** amendment referred to 1000 on page 2, line 25. He indicated that all the amendment did was put in the numerals instead of spelling it out. He asked if that was **Mr. Grogan's** question.

Mr. Grogan said no. He said there was discussion about changing the number to smaller than 1000 so that there would not be such a big pool. He suggested that instead of 1000, perhaps it should be 500.

REP. R. JOHNSON inquired if there were anyone else who disagreed with any part.

Mr. Kunik stated that he had previously addressed an issue regarding agents soliciting business for the alliance.

CHAIRMAN ORR stated that amendment #12 is in regard to that.

REP. SIMPKINS read the insert of amendment number 13 and inquired if that takes care of it.

Mr. Kunik asked if his concern was if the alliance is submitting this to 40 different groups, how does an agent get licensed for 40 different groups. **Mr. Kunik** said that as a producer he was not able to solicit business for different companies unless he is appointed with them.

REP. SIMPKINS asked if a company wanted an agent to bid, they would license him and submit the bid to him. He explained that "you're not soliciting; really you are asking for a bid."

REP. NELSON said that is true.

Mr. Kunik stated that regarding insurance, he is not allowed to solicit any health program. **REP. KASTEN** asked if the word "marketing" would cause a problem in item 13 of the Nelson amendment. **REP. NELSON** explained his use of the word "marketing." **REP. KASTEN** inquired if there was a difference between soliciting and marketing? **REP. NELSON** stated that there is a subtle difference in the law.

REP. KASTEN asked if the wording was okay? **REP. NELSON** said yes and referred to **Mr. Kunik's** concern about having to be appointed with a company before giving him a bid. He said that is the process a solicitor goes through to be contracted with that company in order to solicit products on the marketplace.

REP. KASTEN referred to item 6 of the Nelson amendment. She said that there may be 1000 employees within the employer group, but may only get 75% of the total pool. She inquired if that would be in compliance, or if it would be necessary to change item 6 in order to bring **REP. NELSON'S** concept into reality. Could the policy still be issued?

REP. SMITH said that from 1000 eligible employees, it would be an almost impossible marketing task for one agent to solicit 1000 lives under a group.

REP. NELSON confirmed that it would have to be a bigger organization.

REP. SMITH stated that a person marketing disability insurance policies, certificates or contracts for a voluntary purchasing pool must be licensed as an insurance producer and emphasized that's not the provider.

REP. NELSON said that the producer is the agent.

REP. SMITH stated that the 1000 eligible employees is almost an impossible marketing concept.

REP. NELSON said that when reviewing this issue with the Montana Health Care Authority (MHCA) that he also had the same objection. However, **REP. NELSON** was the only one who felt that it should be lower than 500. He requested that a member of the HCA speak on this issue.

REP. NELSON referred to page 2, line 25 and restated the question.

{Tape: 2; Side: 2.}

Mr. Craig, said the idea in the HCA's work is the concept that the more bodies in the pool, the greater the negotiating power, and therefore the greater the ability to bring down costs.

REP. NELSON inquired if it would be just as good if the 1000 were changed to 500 or 250.

Mr. Craig indicated that the HCA was not sure what number would establish viability. It is important to maintain the concept of the purchasing pool as a consumer's idea; not the insurer's. He indicated that if it is changed to 250 or 500 it is more likely to reach the goal, but the ability to sustain itself and remain financially viable may be a problem.

REP. NELSON agreed and said this is because the healthy people may be able to drop out and buy insurance for less.

Mr. Craig agreed.

REP. SIMPKINS questioned page 2, line 29 and asked if this refers to 1000 employees and not 1000 lives. He indicated that 1000 employees could be 3000 lives. He said that this makes it much worse as far as pools are concerned. He inquired when this slips from valid to invalid.

REP. NELSON spoke about marketing time and the law of averages.

REP. SIMPKINS asked if this is an approach that perhaps a bank would want to get into, or somebody that has a consumer base, that would replace association group-type things, because this is a guaranteed issue, rather than an association group that is underwritten. He asked if the idea is to use this basis as a pool to get guaranteed issue if the company wants it?

REP. NELSON said yes, if it all fits under small group reform and there is guaranteed issue. If small group reform is repealed, then there would probably be relaxed underwriting standards.

REP. SIMPKINS stated that if they have 1000, there has to be allowance for slippage. It may take five months to get it issued.

REP. NELSON disagreed because it is for small group insurance, and each group is one application. If it took 20 employers to get to 1000, then that would be 20 applications. For this to work, an agent would organize several groups and put them together.

REP. KASTEN asked how eligibility is defined. She stated that she had no problem with the 1000. She asked if there are 1000 eligible employees in the group, is that the 1000 that is referred to here, or is it after so many people refuse to join with their employer?

Ms. Clifford, State Auditor's Office, responded that HB 405 would be codified within the set of laws that deal with small group insurance. The definition of eligible employee is anyone who works 30 hours or more a week. She indicated that whether or not they want to be insured through the plan, they would still be part of the "head count."

Motion: REP. SIMON MOVED TO AMEND THE NELSON AMENDMENT, PAGE 3, LINE 6, AND STRIKE "UNDER ALL PLANS OFFERED THROUGH THE GROUP."

REP. R. JOHNSON stated that **REP. SIMON'S** amendment could be voted on separately instead of voting to amend the Nelson amendment.

REP. SIMON stated that this was inadvertently left off of the Nelson amendment. **REP. SIMON withdrew his motion.**

CHAIRMAN ORR asked if there were any further discussion to the Nelson amendment as printed.

Vote: Question was called. Voice vote was taken. **The motion carried unanimously.**

Motion: REP. SIMON MOVED TO FURTHER AMEND THE NELSON AMENDMENT, PAGE 3, LINE 6, STRIKE "UNDER ALL PLANS OFFERED THROUGH THE GROUP."

Discussion: REP. BARNHART asked for an explanation.

Mr. Akey said that because subsection 4 of the bill has been removed, the phrase that is being amended would not make sense as it is now written.

VOTE: Question was called. Voice vote was taken. **The motion carried unanimously.**

CHAIRMAN ORR asked for discussion on the body of the bill.

Discussion: REP. SIMPKINS questioned if this bill is really a viable bill.

REP. NELSON stated that this bill has been passed in about 17 other states, but he was not sure what their experience had been.

He indicated that this bill was drafted against another bill which was written to allow the free-market system to work.

REP. SIMON stated that this bill is proceeding partially on the recommendation of the MHCA.

REP. SMITH stated a concern on page 2, line 25, "Qualification for voluntary purchasing pool for small employers." She suggested changing the 1000 to a lower number.

REP. NELSON commented on lowering the number and letting the marketplace take its course.

REP. SIMPKINS asked what the standard is in the industry today to get an association group established.

Mr. Turkiewicz, representing the Montana Automobile Dealers Association (MADA) and Insurance Trust, indicated that they have 1495 eligible employees in their group. He thought that the Banker's Association had about 1200 eligible employees.

Ms. Bennett, Montana Logging Association, stated that about 13 years ago the Montana Logging Association established a health insurance program with about 300 lives. Today there are over 1000 insured, approximately 2500. They do about $2 million in premiums annually, and pay just under that in claims. Less than 5% utilize 85% of the program.

REP. NELSON stated that **Mr. Kunik** is an agent and does underwriting. If an agent has 25 cases on the books with 20 lives apiece, that would be 500. He asked if there would be any pricing benefit to that group, as compared to separate groups of 20 lives going their own way, assuming that they are all of average health and in the same type of business.

Mr. Kunik said Montana Medical looked at 500 and he thought that insurers would look at it at 500 and more.

REP. NELSON asked if that was 500 lives or employees. **Mr. Kunik** said employees. **REP. NELSON** said that's employees, so spouses would be added on to that?

REP. SIMPKINS said that this is putting together a group which somebody will bid for, but if they don't want to take 500 lives then they don't have to bid. This gives an offer to the company and the company would decide whether or not to back them.

Motion: REP. SMITH MOVED TO AMEND HB 405, PAGE 2, LINE 25, TO STRIKE 1000 AND INSERT 500.

REP. TUSS said that she was apprehensive about cutting this figure too far. She stated that the insurance representatives indicate that 1000 is a better figure in terms of spreading the cost, rate of return, and stability. **REP. TUSS** suggested if the

figure is to be cut, a more moderate number such as 750 or 800 would be better.

Motion: **REP. SMITH MOVED A SUBSTITUTE AMENDMENT TO STRIKE 1000 AND INSERT 750.**

REP. SIMON indicated he would oppose this motion on grounds that he would rather err on the side of having the purchasing pools large enough to be viable. He said that the number could be lowered in two years if people are having difficulty putting together the pools.

REP. SIMPKINS stated concern about putting together 1000. Perhaps, once 1000 employees are reached, the figure may drop down but would be required to bring the figure up to a 1000 employees within a year.

{Tape: 3; Side: 1.}

Vote: Question was called. Roll call vote was taken. **The motion failed 8 to 3 with REPS. ROYAL JOHNSON, TOM NELSON AND REP. LIZ SMITH voting yes.**

Vote: Question was called. Voice vote was taken. **Motion carried unanimously.**

EXECUTIVE ACTION ON HB 446

The chair was passed to **VICE CHAIRMAN TUSS** so that **REP. ORR** may present his bill for executive action.

Motion: **REP. ORR MOVED THAT HB 446 DO PASS.**

Motion: **REP. ORR MOVED TO ADOPT THE TECHNICAL AMENDMENT. REP. ORR** requested **Mr. Akey** to explain the amendment.

Discussion:

Mr. Akey explained the amendment. **EXHIBIT 8** He explained that the Commissioner's concern was that there not be two different sets of preexisting condition exclusions in statute. He stated that the Commissioner had some concern about the clause "a condition that would have caused an ordinarily prudent person to seek medical advice," and questioned what an ordinarily prudent person might be. He explained amendment 3, new Section 2 on riders and stated the necessity to exclude disability income policies from the exclusion so that a person with a chronic condition cannot buy a disability income policy, works for five years and then tries to collect under the disability income policy. He clarified that if the chronic condition existed when the disability income policy was purchased, they ought not to be able to just live with it for another five years and then collect on their insurance policy for the rest of their life. He stated

HOUSE STANDING COMMITTEE REPORT

February 17, 1995

Mr. Speaker: We, the committee on **Select Committee on Health Care** report that **House Bill 405** (first reading copy -- white) **do pass as amended.**

Signed: _____
Scott Orr, Chair

And, that such amendments read:

1. Title, line 5.
Strike: "SMALL EMPLOYER"

2. Page 1, line 30.
Strike: "that obtains"
Insert: "that has been organized and is maintained in good faith for purposes other than that of obtaining"
Following: "insurance"
Strike: ","
Insert: "or of"

3. Page 2, line 17.
Strike: "of small employers"
Insert: "or to the member employers of a voluntary purchasing pool"

4. Page 2, line 22.
Strike: "for small employers"

5. Page 2, line 23.
Strike: "small employers"
Insert: "disability insurance purchasers"

6. Page 2, line 25.
Strike: "one thousand"
Insert: "1,000"

7. Page 2, line 26.
Following: "membership."
Insert: "The voluntary purchasing pool shall accept for membership any small employers and may accept for membership any employers with more that 25 eligible employees that otherwise meet the requirements for membership."

8. Page 2, line 27.
Page 3, line 7.
Page 3, line 19.
Strike: "small"

9. Page 3, lines 1 through 5.
Strike: subsection (4) in its entirety
Renumber: subsequent subsections

10. Page 3, line 6.
Strike: "under all plans offered through the group"

11. Page 3, line 11.
Page 3, line 12.
Page 3, line 14.
Page 3, line 18.
Following: "policies"
Insert: ", certificates,"

12. Page 3, line 13.
Following: "member"
Strike: "small"
Following: "subject to"
Strike: the remainder of line 13
Insert: "the provisions of this part."

13. Page 3, lines 20 and 21.
Strike: subsection (8) in its entirety
Insert: "(7) A person marketing disability insurance policies, certificates, or contracts for a voluntary purchasing pool must be licensed as an insurance producer."

14. Page 3, line 24.
Strike: "5" in both places
Insert: "18" in both places

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Select Committee on Health Care

DATE Feb. 16, 1995 BILL NO. 405 NUMBER 1

MOTION: Rep. Smith moved to amend HB 405, page 2, line 25 to strike 1000 and insert 750. The phrase would read "750 eligible employees."

NAME	AYE	NO
Rep. Scott Orr, Chairman		✓
Rep. Carley Tuss, Vice Chairman		✓
Rep. Beverly Barnhart		✓
Rep. John Johnson		✓
Rep. Royal Johnson	✓	
Rep. Betty Lou Kasten		✓
Rep. Tom Nelson	✓	
Rep. Bruce Simon		✓
Rep. Dick Simpkins		✓
Rep. Liz Smith	✓	
Rep. Carolyn Squires		✓
	3	8

last
2nd last

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

JOINT SELECT COMMITTEE ON HEALTH CARE

Call to Order: By **CHAIRMAN STEVE BENEDICT**, on March 7, 1995, at 5:35 p.m.

ROLL CALL

Members Present:

Sen. Steve Benedict, Chairman (R)
Rep. Scott J. Orr, Vice Chairman (R)
Sen. Dorothy Eck (D)
Sen. Mike Foster (R)
Rep. Duane Grimes (R)
Sen. Judy H. Jacobson (D)
Sen. Ken Miller (R)
Rep. Bruce T. Simon (R)
Rep. Carolyn M. Squires (D)
Rep. Carley Tuss (D)

Members Excused: None

Members Absent: None

Staff Present: Susan Fox, Legislative Council
David Niss, Legislative Council
Jennifer Gaasch, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: This was concerning the following bills: HB 511, HB 542, SJR 14, HB 405, SB 405, HB 531 and HB 560.
Executive Action: None

{Tape: 1; Side: A.}

The nature of the meeting was to have public input on all of the bills mentioned above and then questions would be asked by the committee members. Executive Action would be taken at a later date.

Discussion:

CHAIRMAN BENEDICT said he would like to know how the members of the committee would like to handle proxies.

SENATOR MIKE FOSTER said due to the circumstances that they could use written proxies for the votes in committee.

CHAIRMAN BENEDICT replied he would not have any problem with that. If they worked with blanket written proxies that would be fine.

Motion:

SEN. FOSTER MOVED to allow the use of written proxies to cast their votes.

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

Discussion:

CHAIRMAN BENEDICT said the sponsors were notified about their bills and they were told they would not be required to open and close on their bill. He said they would take testimony from the public on different groups of bills and then after everyone has had a chance to testify, the committee members would ask questions.

Public Testimony:

SENATOR EVE FRANKLIN, SD 21, said she hoped they could put together a good package that would create some change.

Arlette Randash said SB 194 would not be considered by the committee, but it needs equal consideration and scrutiny just as HB 511 does. If the committee is going to investigate new directions of health care, SB 194 should be given consideration because it calls for the diminishing of the Montana Health Care Authority as created by SB 285. Its sponsor realized socialized medicine results. She said a decision would not be complete if SB 194 and HB 511 were not on the table.

Jack Molloy, a member of the Health Care Authority, said he would like to address the issues of the Health Care Authority as in SB 405. He said as far as the Montana Health Care Authority has been a wonderful exercise in listening to the people of Montana and has done a good job of being objective. He said they are at the cross roads and nationally there is a void which is being filled by cooperative efforts. He said it is too early in the process to back the stake out of an authority position in determining the health care services, needs and systems it supplies to its citizens. He said the Health Care Authority realized that they lack Montana specific data. They are not funding things in a matter that will give them legitimate data. He said it was important that the legislature send a message to the vulnerable populations of Montana that they do matter. He said voluntary purchasing pools would enlarge the base of health

insurance which would make it more available and more affordable. He said SB 405 does a good job of organizing the needs of voluntary purchasing pools. They feel the medical savings accounts are one way to encourage people to become insured. He said they need to have a way to measure the affects of those things. He said for that reason it is necessary for a Health Care Authority body that is fully funded by the state who is going to hold the industry to its obligations to the people of Montana if necessary. He said it was not a way for the state to take over health care. He said the only objective party that should oversee that should be the state.

Laurie Ekanger, representing the Governor's office, she said the Governor did support continuation of the Health Care Authority. It is in the budget to continue it and primarily to continue the collection of the data base. She said urged them to continue the data base function. **Laurie Ekanger** said the Governor's office supports the concept of Purchasing Pools. They think HB 405 looks like a good approach. There may be some need to protect those people who pay into a Purchasing pool. Concerning Medical Savings Accounts they felt HB 560 was the cleanest approach to start out.

Ed Grogan, representing the Montana Medical Benefit Plan, Montana Medical Benefit Trust and the Montana Business and Health Alliance, stated the Montana Health Care Authority knows the business and it gave government control of the health care. He said they did not want to see any more government control and therefore supports **REPRESENTATIVE JOHNSON'S** bill which is HB 511. On the Voluntary Purchasing Pools he favors HB 405 and disagrees with SB 405. He said SB 405 was adding more government control. He said that was too high a number for a small group. Concerning Medical Savings accounts, they support HB 531 and are against HB 560. Perhaps there could be a compromise of the 2 bills. They like the $3,000 limit in HB 560. He suggested all of the premium dollars to all be paid with Montana tax free dollars and then go over and above that to $500 a year per person or more to be put in the medical savings accounts. He said they looked at Medical Savings Accounts as a cost saving device being able to bind a persons insurance and pay the deductibles and co-payments with free tax dollars.

Tom Hopgood, representing the Health Insurance Association of America (HIAA), said concerning Medical Savings Accounts they have no opposition to the bills that had been introduced or to the concept of the Medical Savings Accounts. He said that was not a cure of all of the problems, but it is an alternative to take advantage of. Concerning Purchasing Pools one of the things that has to be addressed in order for health care to be reformed is cost. He said health insurance reform is not necessarily health care reform. They have to address the cost of health care. The Purchasing Pool concept is a cost containment measure. The have endorsed both HB 405 and SB 405. The HIAA believes they should infuse into the Purchasing Pool statute a great deal of

flexibility to allow innovation into the market place and allow cost cutting. They would lean more toward HB 405.

Larry Akey, representing the Montana Association of Life Underwriters, he said they represented around 700 professional insurance agencies. He said there needs to be some official body that would continue to look at health care in Montana. He said concerning Purchasing Pools they believe they will serve to contain costs in the market place. They need to look at both HB 405, and SB 405 and recognize that they were having licensed insurance agents selling licensed insurance products through a different marketing mechanism. He said they question if there needs to be further layers of regulation and whether those layers of regulation will in fact serve to reduce the cost controlling capabilities of the Purchasing Pools. They think the mechanism in HB 405 probably has a greater chance of success in the market place. If they believe there needs to be further regulation in the market place, please remember they are talking about licensed insurance agents selling licensed insurance products. Concerning Medical Savings Accounts, they think they are a concept worth exploring. They could not believe they will cure all of the problems that exist in the state. They think HB 560 does have a few modest advantages over HB 531. HB 560 also has some problems that HB 531 does not. Medical Savings Accounts are to allow individuals to buy health insurance with free tax dollars. It could be more adequately accomplished by making health insurance premiums fully deductible. He said there are at least 3 bills going through the system that do that. He urged the committee to endorse both Purchasing Pools and Medical Savings Accounts.

Susan Good, representing Heal Montana, said concerning the Montana Health Care Authority, SJR 14 was a creative and practical solution to that. She said concerning Purchasing Pools they are in support of HB 405. Whether a person chooses the threshold of a Purchasing Pool to be 1,000 or 750 or 862 does not really matter when they get to the point of when they have the group assembled the group drops below whatever number has been selected, at which point does the group cease to be a pool? She suggested there should be a formula developed to spell that out because it had never been addressed. Concerning Medical Savings Accounts, the concept is the centerpiece of the Heal Montana project. She said when an individual uses their own money for health care they are going to be more careful in the way they spend that money. HB 531 and HB 560 should somehow be combined in a way that the best concepts of both are employed. She said they would help come up with solutions to the problems that face all Montanans.

Tanya Ask, representing Blue Cross Blue Shield of Montana, she said they feel they feel the Health Care Authority process has been a very valuable process for the State of Montana. She urged that should be continued. Voluntary Purchasing Pools are a good concept to health with affordability of health care. It is part of the answer. They like HB 405 and can work with SB 405. They

urge an open process and feel that HB 405 will give that a more open process. She said she would like to address the 1,000, there is not a number that they can point to and say that will do it. She said 1,000 was put in there because they wanted to have a large enough number so there can be some attrition and still have a viable mechanism. That number is 1,000 eligible employees, not 1,000 people. She said the numbers would remain relatively constant. She said they urge them to consider a large enough number. Medical Savings Accounts do have a place in the health care reform equation. It does encourage individual responsibility. They have raised some questions in the drafting of HB 560. They will work on those problems. She passed out testimony for 2 days. **(EXHIBIT #1 and #2)**

Dean Randash, representing NAPA Auto Parts, read his written testimony. **(EXHIBIT #3)**

Bob Turner, representing the Department of Revenue, said he would like to address Medical Savings Accounts. He said the effective date on the bills should apply retroactively. They should also make sure that there are no double benefits. He said if they decide that a person can withdraw a certain amount out of the Medical Savings Account and put it into an IRA, that is another benefit and a double benefit. He said if during the time that money is in the Medical Savings Account and it is taken as an exclusion by the taxpayer and is put into a mutual savings account, what happens if the taxpayer takes a loss? Does the taxpayer get to use that loss, or is that lost because it was already taken as an exclusion? He said it would be a lot easier to administer if there was a maximum amount of contributions that could be made as an exclusion on the tax return.

CHAIRMAN BENEDICT replied he would like the Department to come to the committee with possible amendments or things they need to fix in the bill.

Bob Turner replied they would do that.

John Flink, representing the Montana Hospital Association, read his written testimony. **(EXHIBIT #4)**

{Tape: 1; Side: B.}

Claudia Clifford, representing the State Auditor's Office, the Commissioner of Insurance, and the Commissioner of Securities Office, said the commissioner served on the Health Care Authority and said that although insurance reform is needed, insurance reform is not comprehensive health care reform. There is a need for a good data base of information in order for the legislature to address other aspects of insurance reform, they support any legislation with adequate work on a data base. She read her

written testimony which included proposed amendments. **(EXHIBIT #5)** She stated they had talked with **REP. SIMON** about the amendments and he had agreed with them.

Frank Cote, the Deputy Insurance Commissioner, said that Purchasing Pools could be beneficial in the market place. Both of the bills could help consumers get affordable health care insurance. HB 405 has very little regulation in it. SB 405 has some more regulation. The committee must decide how much regulation would be needed. He said the committee should require the registration of the Purchasing Pools. He said the Purchasing Pools manager should have some fiduciary responsibility so the consumers would be protected. He submitted **(EXHIBIT #6).**

Tom Ebzery, representing Yellowstone Community Health Plan, said they supported the Health Care Authority a few years ago, but a few weeks ago he supported the Health Care Advisory Council and had some suggestions on how that might be composed. He said on page 1 of the bill, they had talked about listing a lot of things to do. He said he had a problem with going out and bringing in people from all over the state. He recommended that there be a legislative committee as the advisory committee. He said HB 511 should go forward and the work that has been done, the certificate of public advantage over in the Department of Justice should continue. He said they were an HMO and every time they see a bill that comes up on small group or HB 531 those are plans set up for indemnity plans. HMO's are based upon co-payments and they would like to give them input in terms of schedules. He asked that they will keep managed care and HMO's in mind because they just do not fit under the circumstances.

Riley Johnson, representing the National Federation of Independent Businesses, said they agreed with **Tanya Ask** on the procedures in the past on the Montana Health Care Authority. He said they supported HB 511 and that it is time they take that experience and make it voluntary. He said they agreed with **Riley Johnson** in that the composition be looked at. They feel they are confident in the legislators. They would like the composition looked at and changed to a primary legislative committee. The problem they had about the data base was the detailing of what it would be used for and what it really would mean. He said regarding Voluntary Purchasing Pools, primarily HB 405 addresses the issue. He said it has a few things to work out and they would help in that effort. He said Voluntary Purchasing Pools give them cost reduction. He said on Medical Savings Accounts, they think that is affordability and responsibility. He said they support HB 560. They would like to see HB 511 to eliminate the Montana Health Care Authority, HB 405 for Voluntary Purchasing Pools, and HB 560 for Medical Savings Accounts.

David Owen, representing the Montana Chamber of Commerce, said the Chamber supported the creation of the Montana Health Care Authority. He said he does not have a specific suggestion on what form that authority would take in the future. He said concerning Purchasing Pools they were going to be important and he encouraged them to be voluntary, etc. He said they believe in that concept.

Keith Kovash, representing the Montana Association of Health Care Purchasers, read his written testimony. **(EXHIBIT #7)**

Anita Bennett, representing the Montana Logging Association, said they have found that the Health Care Authority did bring forth a lot of information. They have concerns of the process of bringing forward that information. She said they never discussed what the cost was to the consumer and to the employer, and the bottom line as to access of services. Guaranteed issue and affordability are not compatible. She said in regards to Voluntary Purchasing Pools, HB 405 seems to be more conducive to a better competitive arena and arrangement. They are a fully insured health insurance program. In regards to Medical Savings Accounts, they see that as an important step in regards to the timber industry people. She said those accounts would assist them in having accessibility of their own dollars put into the medical arena as they are needing the services at that point in time.

SENATOR JUDY JACOBSON, SD 18, Butte, said there was a lot more regulation in SB 405 and they could work some of that out together. She said SB 405 does allow individuals to participate. She said with small group, there would not be a guaranteed issue if those people were not eligible for small group. The could participate in a Purchasing Pool. The Purchasing Pool could certainly disallow them. One of the biggest problems is they have self-employed and young people in the state who cannot participate in any plan at all. She said SB 405 would not allow groups or individuals to be excluded based on their occupation. That is not included in HB 405. She passed out a summary sheet. **(EXHIBIT #8)**

REPRESENTATIVE GRIMES asked **Larry Akey** what were the downside to and the upside of individuals included in these bills regarding Purchasing Pools? **Larry Akey** said that there were both upsides and downsides to including individuals in a Purchasing Pool. There is a fundamental difference between individuals purchasing insurance and small employers purchasing insurance. There is a different motivation. Individuals are usually purchasing insurance because of an anticipated health risk. They are motivated by their health concerns. Employers are generally motivated by a concern in the labor market. They want to attract the best quality of employees they can. If they start putting individuals into pools they have strong potential for adverse selection. He said initially they ought to look at Purchasing

Pools fully for employers so they do not have that potential for adverse selection. That would drive the cost up. **REP. GRIMES** said **Mr. Akey** expressed some concerns about HB 560. He asked **Mr. Akey** to explain those concerns. **Mr. Akey** said HB 560 was more tightly crafted than the Medical Savings Account portion of HB 531. Under HB 531 an account administrator was defined as an employer. Under HB 560 an account administrator may be an employer who has a self-insured plan. Under HB 531 they have said a self employed individual was an employee. Does that also made that self-employed individual an employer, if it does, then there would be a self-employed individual acting potentially as his or her own account administrator. He said the definition of dependent in HB 560 is more in line with the kinds of definitions they use in the insurance industry. The definition of a dependent in HB 531 is a definition that looks like the tax code. He said they were talking about a health-related product and so it would make sense to them to have dependent defined in the Medical Savings Account bill more in line with the health care product that in the line of the tax code. HB 560 speaks to a specified dollar amount that could be contributed to a Medical Savings Account. It is important to recognize if they want to have deductible insurance premiums they may want to address that in a separate issue than Medical Savings Accounts. HB 531 has a nebulous amount that could be contributed to a Medical Savings Account based on premiums plus deductibles plus the co-payments they would have for a $1,000 deductible health insurance policy. There is nothing in the bill that says there is a specified dollar amount that could be contributed to the Medical Savings Account.

REPRESENTATIVE SIMON said there were a lot of amendments that were drafted. He asked how they might proceed to make the amendments available to the interested people. **CHAIRMAN BENEDICT** said they could distribute them tonight. **REP. SIMON** asked **Larry Akey** if **REPRESENTATIVE NELSON'S** bill, for example, or **SENATOR DOHERTY'S** bill that deals with deductibility of health insurance premiums passes and they pass a Medical Savings Account bill also, would a person then not be able to deduct the premiums that they pay and make a contribution to a Medical Savings Account. **Larry Akey** replied that if that were to happen, that a $3,000 cap on Medical Savings Account, would be more sufficient to help pay for the deductible and the co-payments of a policy for which they would have already been able to deduct the premiums. **REP. SIMON** asked **Bob Turner** if Medical Savings Accounts have been referred to as a Medical IRA, and under an IRA arrangement if that was applied to gains or losses based on interest on a regular IRA, how would that be treated as far as the Montana tax codes? **Bob Turner** replied the way it is treated is they put money into a regular IRA and it is put in a mutual fund and it loses money, they do not take a loss at all. They report that when they pull the IRA out. They already took the loss when they took the exclusion when arriving at the net gross income. **REP. SIMON** asked if a Medical Savings Account would be handled differently. **Bob Turner** replied no it would not. He said there is an

amendment put forth by the Department of Revenue so that if they did have a Medical Savings Account and they took out money from that to pay health insurance premiums, that would have to be deducted as an itemized deduction.

REPRESENTATIVE TUSS said in **Dr. Molloy's** testimony that he saw great value in collection of data and the utilization of that data. She asked him to give some definition and parameters to that data base and further explanation of how he would see that utilized. **Dr. Molloy** said the issue of the data base was to be one of the next projects of the Health Care Authority. He said there was the component of cost, who was paying for health care in Montana and how much money was being collected from state and federal agencies and where that money was going. From the stand point of providers, they wanted specific data on the cost of care for specific illnesses that they could compare across the state. One set of data is more complex and used to evaluate the health care system and from that data they distill specific data that they would be able to consume as usable and would make it very easy for consumers to compare that data. That has to include the payers of health care, who they are covering, what kind of dollars, and what benefits. He said people who testified said they want more consumer and more personal responsibility for how they spend their health care dollars, but that is very hard to do when there is data missing. The only data that is available is that data the providers or the insurance companies want the consumer to know about. He said they envision a data system to evaluate how the system works and how it is paid for and a system that is compatible for individual use to make their own health care decisions. **REP. TUSS** said it was time for the Health Care Authority to take a deep breath, look backward, and look forward. She said some references need to perhaps reflect the health council as opposed to the health authority. The Health Care Authority now has historical and institutional history throughout the state. How would he envision a transition between the authority and the council considering the data base? **Dr. Molloy** said the past year and a half has been consumed by the mandate of the previous legislation. Early on they realized the data that was available was at best several years old and a lot of it was extrapolated to Montana. It took a lot of time, effort, and expense to get usable data to present the 2 health care plans. He said they would have wished they could have moved forward in the last biennium to develop the data base system. He said those on the authority are uneasy about how raw data can be collected and disseminated and perhaps misused or misrepresented. They feel it is very critical that the knowledge be transported to and utilized in whatever the Health Care Authority or the Health Care Advisory Council or whatever it becomes. That knowledge has to be made available and those people would have to familiarize themselves with that in order to understand what data was necessary.

SENATOR ECK said **John Flink** suggested that the committee combine HB 542 into the advisory council. **John Flink** replied he made that suggestion because when he talked to **REPRESENTATIVE TASH** he was concerned with implementation. They felt there might be some way to meld them. He said the goals to improving the public health system in the state are a part of what they want to pursue and maybe the advisory council would be the ones to do that instead of establishing a separate entity out there. . **SEN. ECK** said she would like to know which group it is, is it the Montana Public Health Association that worked on that proposal? **REP. TUSS** replied it was the Department of Health and Environmental Sciences.

Mike Craig, representing the Montana Health Care Authority, said the Montana Public Health Task Force was affiliated with the Department of Health and local public health agencies, and their interested parties got that proposal together and brought if forth to the authority. The agree that they do not want to see any duplication, but must be reminded that there is a statutory link between the Department of Health and the local public health agencies. If that is combined with HB 511 there may be some legislation problems. The task force that is created by HB 542 could be dealt with through the new council. Department of Health would still have to be a main player. **SEN. ECK** said she did not understand what the rationale was for putting it into SRS. **Mike Craig** replied the rationale was because of the appearance that HB 511 would be what the majority of the legislature wishes it to happen, that SRS will take the responsibility of supporting the council. They suggested that they strongly encourage the work of data collection to go along with that somehow so that it does not get lost. HB 511 wipes out the Health Care Authority in its entirety including data base.

REP. SIMON stated that one of the reasons it was chosen to be put over there is because SRS is already involved in a lot of data collection.

SEN. JACOBSON replied that there are data base systems. Western States has instituted a data base. They already have one.

MONTANA SENATE
1995 LEGISLATURE
JOINT SENATE-HOUSE SELECT COMMITTEE ON HEALTH CARE

ROLL CALL DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DOROTHY ECK	X		
SENATOR MIKE FOSTER	X		
REPRESENTATIVE DUANE GRIMES	X		
SENATOR JUDY JACOBSON	X		
SENATOR KEN MILLER	X		
REPRESENTATIVE BRUCE SIMON	X		
REPRESENTATIVE CAROLYN SQUIRES	X		
REPRESENTATIVE CARLEY TUSS	X		
REPRESENTATIVE SCOTT ORR, VICE CHAIRMAN	X		
SENATOR STEVE BENEDICT, CHAIRMAN	X		

Exhibit # 1

Blue Cross Blue Shield of Montana

An Independent Licensee of the Blue Cross and Blue Shield Association

404 Fuller Avenue
P.O. Box 4309
Helena, Montana 59604
(406) 444-8200
Fax: (406) 442-6946

Customer Information Line:
1-800-447-7828

Charles Butler, Jr.
Vice President
Government and Public Relations

EXHIBIT 1
DATE 3-7-95
many bills

March 8, 1995

Senator Steve Benedict, Chairman
Representative Scott Orr, Vice Chairman
Joint Select Committee on Health Care
Montana State Legislature
Capitol Building
Helena, MT 59620

Dear Chairman Benedict and Vice Chairman Orr:

Blue Cross and Blue Shield of Montana looks forward to working with you and your committee as we continue to define pieces of the health care reform equation for Montana. We have been a Montana company in business for over fifty years, currently providing health benefits or administration for more than 235,000 Montanans.

Over the last several years we have worked with Former Governors Stephens and Schwinden, and Governor Racicot, their health care task forces, the Authority, doctors, hospitals, allied health care providers, small and large businesses, labor, seniors, individuals, and agents on reforms of our industry and the healthcare delivery system. The goals continue to be not only access but also affordability.

When former Governor Stephens first brought up the idea of insurance market reform, it was to address practices for which the industry was criticized, and which the industry recognized needed to change. We cannot lose sight of those problems. Nor can we lose sight of who we said the detractors would be.

We will address these and specific issues as we go through some of the legislation which will be taken up by your committee. The legislation falls into three broad areas:

Insurance Reform: SB194, SB322, SB380, HB446, HB466, HB531, HB533.

Market Reform: SB376, SB405, HB405, HB531, HB560.

Health Care Reform: SB194, SB341, HB511, HB531.

Insurance Reform

These bills include action not only on small group reform, but also individual market reforms.

Insurance reforms were meant to address the following concerns:

1. Portability of coverage so individuals would not have to meet a new preexisting waiting period each time they or their employer changed coverage;
2. No cancellation or nonrenewal of coverage except for nonpayment of insurance premiums, addressing a concern that some insurers would only cover an individual until they became sick or submitted a claim; and
3. Access to the benefit market through anti-cherry-picking legislation called "guaranteed issue." We said when this consumer protection was first proposed for small groups that not everyone in our industry would agree with it, and as in other states where niche-marketing cherry pickers have complained about having to manage risk, you have received complaints here.

It was with the full knowledge and support of most members of the Insurance Access Committee that Governor Stephens included these provisions in his proposal for health care reform which Representative Tom Nelson originally proposed in the 1993 Legislature. These changes have been enacted by thirty-seven other states, including many of our neighbors like Wyoming, North Dakota, and Idaho.

HB446 by Representative Orr modifies the way insurance companies apply preexisting waiting periods on both individual and group benefits. Companies could only look back for three years when determining whether a condition is preexisting. Currently companies by law can look back up to five years.

The bill also acknowledges and restricts a current industry practice, used primarily in the individual market, of exclusionary riders. This allows an individual with a medical problem, which will probably be an expense in the near future (such as a bad knee needing surgery), to still get coverage for everything else. Without these riders, coverage would most likely be denied. Under this bill, the exclusionary rider could only be put in place for up to four years.

HB533 by Representative Arnott provides a mechanism for portability of time already met on preexisting waiting periods. Already part of small group reform, an individual moving into the small group market can waive the preexisting condition clauses so long as the person has been continuously covered. This bill allows that portability feature to apply going into the individual market as well.

SB322 by Senator Jacobson is similar to HB533, providing portability of waiting periods met into the individual market.

Small Group Reform

SB194 by Senator Baer repeals small group reform. We are opposed to repeal. We believe the reforms passed in 1993 are the right thing to do. We believe it was well-thought-out, and was discussed at length prior to, during, and since the 1993 session.

EXHIBIT 1
DATE 3-7-95
many bills

There are problems with the way small group reform was implemented, and we think HB466 is the appropriate mechanism to address these problems. HB466 by Representative Nelson modifies the small group access law. There are some changes we believe the Joint Committee may wish to make in this bill as passed by the House to make it stronger, particularly in the area of benefit design.

We prefer the idea of a standard benefit design, which contains a higher level of benefits, and basic benefit designs, which are leaner, being made available on a guaranteed issue basis. The Insurance Department would not establish the type of benefits which will be included, but would establish the level of patient responsibility. The floor for basic benefit designs would be the plan set by the Montana Comprehensive Healthcare Association coverage, as amended by SB431, if that bill passes.

In addition, a modification proposed by the House would be considered, the development of a leaner plan called the Uniform Benefit Plan which all insurers in the state would offer, but would not be subject to guaranteed issue. The Uniform Plan would serve as the basis of comparison for consumers who want to look at similar benefits from one company to another. This approach also addresses a concern raised by HEAL Montana that there should be a lower-priced level of benefits available on a nonguaranteed issue basis.

Under this approach there would be several products available on both a guaranteed issue and nonguaranteed issue basis, some developed by the marketplace and others, such as the Uniform Benefit Plan, serving as a point of price comparison. The products represent the range of choice the market wants from leaner to richer levels of benefits.

There are problems with the Uniform Benefit Plan as it is currently proposed in HB531 which HEAL Montana has said they are willing to address. Those are mentioned in the attached letter dated March 2.

SB380 by Senator Jacobson as amended expands the current small group reform applicability from the current 3-25 employee size to businesses with up to 50 eligible employees.

HB531 by Representative Orr, which contains many reform recommendations, is addressed in the enclosed letter.

Individuals with medical problems who work for small business and members of their families who may have an ongoing illness should not be discriminated against when purchasing health insurance. This practice of cherry-picking only the healthy workers and their families was outlawed by the Small Group Insurance Act. It should not be allowed to creep back into the Montana marketplace. Problems with Small Group can be fixed as suggested above.

Market Reform

HB405 by Representative Nelson and SB405 by Senator Jacobson both deal with the concept of insurance purchasing pools. The House version is preferred by business and insurance. While providing the mechanism to band together for more economies of scale, it does not introduce additional regulatory criteria, as is required by the Senate version. Market protections, however, are included.

SB341 by Senator Holden contains reforms and improvements in the Montana Comprehensive Healthcare Association insurance program of last resort. This approach is preferable to the approach taken by HEAL Montana. A caveat on benefit design--for each benefit added, there is a corresponding cost to the benefit.

SB376 by Senator Christiaens addresses regulation of multi-employer welfare arrangements or MEWAs, self-funded employee health benefit arrangements which currently do not undergo state solvency scrutiny, nor do they comply with state market conduct criteria. This proposal is a start to some of the protections which need to be in place. More should be done, such as application of certain protections such as newborn coverage, contract disclosure, privacy protection, and insurance market reforms like noncancellation/nonrenewal prohibitions and guaranteed issue.

Health Care Reform

HB511 by Representative Johnson addresses concerns that we continue incremental reform recognizing problems continue for most Montanans with health care cost and access.

We look forward to working with you on these issues and any other proposals you review.

Sincerely,

Charles Butler, Jr.
(406) 444-8263

201TA303.1H/hcb
Enclosures
cc: Joint Committee Members

Exhibit # 6

EXHIBIT 6
DATE 3-7-95

AMENDMENTS TO HOUSE BILL 405

1. Page 2, line 28.
Following: "experience"
Insert: ","
Strike: "or"

2. Page 2, line 28.
Following "status"
Insert: "or occupation"

3. Page 3, line 22.
Insert: "(9) It shall comply with the provisions of Title 33, chapter 17, part 6."

Exhibit #7

PROPOSED AMENDMENTS TO HB405/SB405

EXHIBIT 7
DATE 3-7-95

PURCHASING POOLS

Before the Joint Select Committee on Health Care Issues

by the Montana Association of Health Care Purchasers
Keith Kovash, Board Chairman

The MAHCP is a non-profit organization of employers, and associations of employers and employees which espouses and has every intention of actually doing group health insurance purchasing. We believe that purchasers who are too small to successfully negotiate favorable health plan terms and conditions on their own can do so collectively. We applaud your efforts to provide enabling legislation. We see this as one of the very few cost control hopes coming out of this legislative session.

We ask that you seriously consider the following statements of principle and specific recommendations for combining HB405 and SB405. Ours may be the only testimony you receive from purchasers.

Principle I: Purchasing pools need to be allowed to evolve and self-select workable structures and strategies. There are numerous models and approaches. No one has the magic bullet, especially for a rural Montana health care environment. The employers and employee groups who are investing in a purchasing pool, who will benefit from its successes and who take the risk for its failure should be the ones determining what approach they think will work best—not the Insurance Commissioner's office as provided by many provisions of SB405.

> **Recommendation:** Adopt HB405 (possibly with some amendments from SB405). This will allow purchasing pools to form and gain some experience. Next session, draw on that experience to craft any additional legislation needed. Take the same incremental approach to purchasing pools you are taking to other aspects of health care reform.

Principle II: Reasonable fiduciary requirements are appropriate to protect consumers. Purchasing Pools will have fiduciary responsibility for any premiums collected for transmittal to insurance carriers.

> **Recommendation:** Amend HB405, as needed, to establish the same fiduciary requirements on purchasing pools as on any other non-profit entity which collects funds from members of the public. The MAHCP would be happy to work on such an amendment.

Principle III: The same (no greater) prohibitions on risk selection as placed on commercial insurance carriers are appropriate. If insurance reform is to be a reality,

PROBLEM: The amendments to HB405 Section 2 (2) created inequity. The last sentence had prohibited purchasing pools from excluding small employers on the basis of claim experience or health status. By striking "small," it now prohibits purchasing pools from excluding any employers on the basis of claim experience or health status. Since commercial insurers can exclude larger employers on this basis, the purchasing pool will pick up all the larger employer groups commercial insurers don't want which could swamp a purchasing pool.

The deletion of the word "small" appears to have been inadvertent, since it was not part of the amendments to the bill worked out by interested parties and submitted by Mr. Akey.

Recommendation: Return to the original version or implement the following amendment which we believe better achieves the intent.

Proposed amendment to Section 2 (2):
(2) It establishes requirements for membership. THE VOLUNTARY PURCHASING POOL SHALL ACCEPT FOR MEMBERSHIP ANY SMALL EMPLOYERS AND MAY ACCEPT FOR MEMBERSHIP ANY EMPLOYERS ~~WITH MORE THAN 25 ELIGIBLE EMPLOYEES~~ WHO DO NOT MEET THE DEFINITION OF A SMALL EMPLOYER THAT OTHERWISE MEET THE REQUIREMENTS FOR MEMBERSHIP. ~~However, the voluntary purchasing pool may not exclude any small employers that otherwise meet the requirements for membership on the basis of claim experience or health status.~~ HOWEVER, MEMBERSHIP REQUIREMENTS MAY NOT INCLUDE HEALTH STATUS OR CLAIM EXPERIENCE, OR OCCUPATIONAL GROUP

Alternate Recommendation: If the committee feels that a prohibition on risk selection of larger employers is critical, allow rates for larger employers to be modified to reflect the risk.

Desirable Features of SB405:

- The requirement that the governing board of a purchasing pool be composed of purchasers.
- The allowance of separate premium structures for small employer groups and larger employer groups.

Poison Pills in SB405:

- Unnecessary and potentially debilitating requirements and government regulation.
- The inclusion of individuals and sole proprietors in insurance pools. Employers cannot be expected to take on this additional burden.

EXHIBIT 8
DATE 3-7-95

FROM
SEN. JACOBSON
Exhibit #8

HB 405

1. Allows anybody to establish a purchasing pool with no criteria for governance of the pool.

2. No provision for criteria to prevent a pool from developing membership requirements which exclude employer groups outside of claim experience or health status, such as occupation.

3. No provision for reporting to assess for cost containment objectives or consumer satisfaction.

4. Does not allow self-employed individuals to participate in a pool.

SB 405

1. Requires that the purchasing pool have a board of directors made up of purchasers with a balance between employers and employees.

2. Membership requirements are in addition to those adopted by the Insurance Commissioner and cannot exclude groups or individuals based on occupation.

3. Requires that the pool actively engage in providing information to participants on cost and quality.

4. Allows individuals to participate.

5. Requires financial viability verified through reporting.

6. Requires written plan of operation.

7. Allows risk adjustment for individuals and large groups.

8. Allows for market areas to be established to ensure that a purchasing pool remains operational and sound; does not prohibit competition similar market areas.

9. Provides protections for participants in a pool in the event of insolvency or mismanagement of the pool.

DATE March 7, 1995

SENATE COMMITTEE ON Joint Select Committee on Heath Care

BILLS BEING HEARD TODAY: HB 511, HB 542, SJR 14, HB405, SB 405, HB 531, HB 560

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
JACK Molloy	Mont Health Care Auth			
M Sweeney	HEAL-MT	HB 560 HB 405 SB 531	X	
Keith Kamsky	Montana Association of Health Care Purchasers	HB/SB 405		X
LARRY AKEY	MT ASSOC OF LIFE UNDERWRITERS	HB/SB 405 HB531 & HB560		
Ed Caplis	MSCA			
FRANK Cote	ST. Auditor			
Claudia Clifford	State Auditor's Office	HB		
Ed [illegible]	MMBP/MABT			
Tom Hopgood	Health Ins. Assoc. Amo.			
David Ocisek	MT Chamber			
Robert Turner	MT Dept of Revenue			
Tom Ebzery	Yellowstone Comm Health Plan			
Riley Johnson	NFIB			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE March 7, 1995

SENATE COMMITTEE ON Joint Select Committee Health Care

BILLS BEING HEARD TODAY: HB511, HB542, SJR14, HB405, SB405, HB531, HB560

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Anita Bennett	Montana Logging Assn	HB531 SB405	✓	
Joan M. Ramlow	MABA Auto Parts	HB531 SB405	✓	
Charles R. Brooks	Billings Chamber	HB405 HB511	✓	
Laurie Ekanger	Governors Office	HB405 HB511	✓	
Tanya Ask	Blue Cross/Blue Shield MT	HB405 SB405 HB511	HB560	HB531
Eve Franklin	S.D. 21			
Jerim T Loendorf	Mt Med Assn	HB531, HB560 HB405, SB405	✓	
Keith L. Colbo	Deaconess - Billings	HB405	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Vote:

The **MOTION TO CONCUR IN HB 511 AS AMENDED. SENATOR JACOBSON** would carry HB 511.

EXECUTIVE ACTION ON HB 542

Motion/Vote:

REP. SIMON MOVED TO **DO PASS** HB 542.

The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 405

Motion:

REP. GRIMES MOVED HB 405.

Discussion:

CHAIRMAN BENEDICT replied that if they were to pass HB 405 they would not pass SB 405.

Motion:

SEN. JACOBSON MOVED amendment to HB 405. **(EXHIBIT #3)**

{Tape: 1; Side: B.}

Discussion:

REP. GRIMES asked if they could explain that amendment because he was trying to think of an example of where they would exclude someone based on their occupation.

Mike Craig, representing the Montana Health Care Authority, said if they use occupation it could be used to exclude a group. He said that voluntary purchasing pools can end up excluding groups that are a high risk occupation, such as loggers.

Vote:

The **MOTION CARRIED UNANIMOUSLY.**

Discussion:

SEN. JACOBSON said there was an amendment proposed by **Claudia Clifford. SEN. JACOBSON** said that HB 405 has no regulation by the insurance commission. She said there should be some protection for the consumers. The amendment suggested HB 405 would comply with the provisions of title 33, chapter 17, part 6.

Claudia Clifford, representing the Insurance Department, said that would suggest the purchasing pools to part 6 of their codes which dealt with administrators of insurance plans. She said the amendment would have the third party administrators register with their office. There was a certification process that could be waived if they are a business that currently exists. She said they just wanted to know who they were. She said there was a fiduciary tie between the insurer and the company so if there was any problems with the purchasing pool administrator's handling of the money, the company would be responsible.

CHAIRMAN BENEDICT asked if they had rulemaking authority under chapter 17 to access fees for the registration.

Claudia Clifford said there was a fee of $100 when they register as an administrator.

Motion :

SEN. JACOBSON MOVED amendment #3 on because they have already taken care of #1 and #2.

Discussion:

CHAIRMAN BENEDICT said the people that sell the insurance are already regulated. He said other than another $100 did not do that much good.

REP. SIMON said if looking at the copy of the code, it talks to the administration and not the selling of insurance.

CHAIRMAN BENEDICT said it was another regulatory burden that was maybe not necessary because the people who represent the insurance companies when forming the purchasing pools were already regulated.

SEN. ECK said she remembered people saying that they preferred HB 405, but they should add something to the bill that regarding the responsibilities.

CHAIRMAN BENEDICT said he did not see where it speaks to solvency or anything really like that. It was to see who was out there. They already basically know who was selling insurance. He said he did not see where it was necessary.

SEN. ECK asked if she could address the fiduciary question.

Frank Cote said they were trying to address that an unlicensed individual can set up the purchasing pool. He said they must eventually purchase insurance through licensed agents. They were trying to get at the unlicensed person who might set up a pool that they have no authority over.

CHAIRMAN BENEDICT asked how would they take premiums if they were unlicensed.

Frank Cote said that they could sell through an agent, but they could collect the premiums and present them on to an agent for the company.

REP. SIMON asked if the pool has not been formed, then would it really fall under this any how.

Frank Cote said they were talking about after they pool was formed. Someone can form a pool and be the administrator of the pool and go out and find an agent which will sell the insurance to the pool. They have regulatory authority over that agent and the insurance company, but not over the administrator of the pool. If the money was coming into the pool and the pool was supposed to pass it on to the agent or the company, that may or may not happen. If it did not happen, there is not ability to go after the administrator of that pool if they are unlicensed.

Larry Akey, representing the Association of Life Underwriters, said there was the issue of whether or not there would be an unlicensed administrator collecting money and funnelling it through an agent back to the company. Because both the agent that markets the product and the product itself are fully regulated, it seems like there is no need for another level of regulation. He said he did not disagree if the committee wanted to adopt the rules to register and require some minimal reporting to the commissioners office, but to bring the administrator of the pool under the third party administrator statute was really intended for self-funding organizations and not fully underwritten products. He said this may be too much. There is not going to be the ability to go out and collect a lot of money because there was not going to be a product to collect the money on.

CHAIRMAN BENEDICT asked if he would rather see the amendments of his. **(EXHIBIT #4)**

Larry Akey said those were the type of reporting requirements that would be less obtrusive than requiring the pool administrator to register as a third party administrator.

Vote:

The **MOTION FAILED** with **SEN. JACOBSON, SEN. ECK, REP. TUSS and REP. SQUIRES** voting yes.

Motion :

CHAIRMAN BENEDICT MOVED an amendment on page 3, line 1, section 2, subsection 2, following "any" restore "small". He said that he was not sure why it was deleted. Page 2, line 30, after "employers" strike "with more that 25 eligible employees".

Discussion:

REP. SIMON said the reason the language is that way is because it was felt that if they limit it to employers that have less that 25 employees they leave 1,000 eligible employees in there it would make it difficult for some of the pools because most of the employers in Montana are small business and some may have more that 25. It was felt to allow the inclusion of some businesses so that they can reach the goal of 1,000 eligible employees and they might want to bring in a few employers that may have 100 employees in order to reach the goal of having a purchasing pool of 1,000 eligible employees. He objected to the amendment.

Steve Turkiewicz, representing Montana Auto Dealers and the Montana Association of Health Care Purchasers, said they wanted amendment #1. That was on page 3, line 1. The concern they had on the language of amendment #2 is on page 2. The concern was on the 25 employees. That is the definition they are looking at, at the top level of the small employer definition. The would like to see something that tied it to the small employer availability act language to assure them that they could have small employers and also employers also that are outside that and not get into what they have for an excepted individual. He said the key was something along the line larger than the small employer as defined. They were concerned that if the language was changed it would not match with the act. They were looking for something that was larger than defined or not defined in the small employer group.

CHAIRMAN BENEDICT said he would ask to have the amendments segregated.

REP. SIMON said on line 18 of page 2, the House struck "small" employer and then "may except employers of more than 25 employees" and went on to strike "small" employers over there because if they put small employers in there it may not exclude employers that otherwise meet the requirements.

CHAIRMAN BENEDICT said they still had "small" employers on line 29.
David Niss said it was codified in part 18 where that definition applies.

SEN. JACOBSON said with the amendments are they saying this applies to small group and the way it was defined currently was 3-25. They are trying to open the top end up for groups of more that 25, but not less than 3.

Susan Fox replied that was her understanding. The amendment on page 3, line 1, **Larry Akey** could address because in the testimony, someone called it an inadvertent amendment, "small". She said it was not included in what **Mr. Akey** presented to the committee, but because the editors brought it up she asked him if it was in or out and he made the comment on the spot.

REP. ORR said the Montana Association of Health Care Purchasers gave them amendments and on the second page the first half of that page deals with that problem. He said that it seems to contradict themselves. He asked him to speak to that also.

Larry Akey said the **Susan Fox** was correct when she explained it. If they leave the language "small" stricken from page 3, line 1, they create a guaranteed issue requirement for employers of larger than 25. He said that would put the purchasing pool at a disadvantage relative to the market place. He said they amendment was to put "small" back in.

SEN. JACOBSON said in effect they were saying that people could come into the purchasing pool and the high end even if they do not move to 25 they will be fully underwritten or they may be fully underwritten.

Larry Akey said the way that it was presented to the committee after coming from the House, they could not be underwritten. The Health Care Purchasing Association is asking for that freedom.

SEN. JACOBSON said if they were going to do that for the top end, why do they not let individuals in.

Larry Akey replied that was a different issue. The motivation for people purchasing insurance as individuals is different than the motivation for people purchasing insurance as groups. If they allow individuals in, they open up for the potential of adverse selection. He said if they were going to allow individuals in on a fully underwritten basis and that the pool could exclude them for health concerns then adverse selection could maybe be avoided.

SEN. JACOBSON said she disagreed because when they get into groups as small as 3 to 25, they are talking about family members a lot of the time and many of those people are probably purchasing insurance for themselves and not the market place.

Vote:

The **SEN. BENEDICT MOTION to amend page 3, line 1, in section 2 be CARRIED UNANIMOUSLY.**

Discussion:

CHAIRMAN BENEDICT WITHDREW THE MOTION on the second amendment.

He submitted an amendment concerning the registration of the pools. **(EXHIBIT #4)**

Motion/Vote:

SEN. FOSTER MOVED the amendments **(EXHIBIT #4)** . The **MOTION CARRIED UNANIMOUSLY.**

Motion/Vote:

SEN. FOSTER MOVED DO PASS HB 405 **AS AMENDED.** The **MOTION CARRIED UNANIMOUSLY.**

SEN. JACOBSON would carry SB 405.

EXECUTIVE ACTION ON SB 405

Motion/Vote:

SEN. JACOBSON MOVED TO TABLE SB 405. The **MOTION CARRIED UNANIMOUSLY.**

EXECUTIVE ACTION ON HB 560

Motion:

REP. SIMON MOVED to **DO PASS** HB 560.

Discussion:

CHAIRMAN BENEDICT said there was a 3 page set of amendments. **(EXHIBIT #5)**

Motion:

REP. SIMON MOVED the AMENDMENTS (EXHIBIT #5)

Discussion:

David Niss said that paragraphs 1-3 were only to conform to the remainder of the amendments. They have added "or a dependent of the employee or account holder" throughout the amendments because they had not made it consistent through the bill that the Medical Savings Accounts could be used for health care expenses of dependents also. He said paragraphs 5 and 6 on the first page go together. Those let the employer contribute both the Medical Savings Account and to a health care insurance policy established by the employer.

CHAIRMAN BENEDICT said the employee would be getting a benefit from the money employer was paying for premiums on a catastrophic policy.

REP. SIMON said that subsection 4, on page 2, would explain that.

David Niss went through the amendments. He said the language on line 8, providing for the exception as in subsection 4, is being stricken because it is not really an exception, but is excess language. The language in 10 is to make that there is no limitation on the amount of money that could be deposited into the account as long as the exclusion for the principal that was

SENATE STANDING COMMITTEE REPORT

March 15, 1995

MR. PRESIDENT:
We, your Joint Select Committee on Health Care having had under consideration HB 405 (third reading copy -- blue), respectfully report that HB 405 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Steve Bendict, Chair

That such amendments read:

1. Title, line 5.
Following: ";"
Insert: "ASSIGNING THE COMMISSIONER OF INSURANCE CERTAIN DUTIES REGARDING VOLUNTARY PURCHASING POOLS;"

2. Page 3, line 1.
Following: "~~small~~"
Insert: "small"

3. Page 3, line 2.
Following: "experience"
Insert: ", occupation,"

4. Page 3, line 30.
Insert: "

NEW SECTION. **Section 3. Commissioner powers and duties -- application for registration -- reporting insolvency.** (1) The commissioner shall develop forms for registration of an organization as a voluntary purchasing pool.

(2) An organization seeking to be registered as a voluntary purchasing pool shall make application to the commissioner. The commissioner shall register an organization as a voluntary purchasing pool upon proof of fulfillment of the qualifications provided in [section 2].

(3) The voluntary purchasing pool shall provide an annual report and financial statement to the commissioner containing sufficient detail in order that the commissioner may determine whether:

(a) the operation of the voluntary purchasing pool is fiscally sound; and

(b) the voluntary purchasing pool is bearing any risk.

(4) The annual report of the voluntary purchasing pool must disclose its total administrative cost in the same manner and on the same basis as insurers.

(5) If an examination of the annual report and financial

statement indicates that the voluntary purchasing pool fails to meet the qualifications of [section 2], the commissioner may suspend or revoke the registration of the voluntary purchasing pool. An action to suspend or revoke the registration of the voluntary purchasing pool is subject to the provisions of Title 2, chapter 4, part 6.

(6) If an examination of the annual report and financial statement indicates that the voluntary purchasing pool is insolvent, the commissioner shall maintain jurisdiction of the purchasing pool for the purposes of protecting the interests of the pool participants and the insurers writing the disability insurance."

Renumber: subsequent section

5. Page 4, line 1.
Strike: "Section"
Insert: "Sections"
Following: "2"
Insert: "and 3"
Strike: "is"
Insert: "are"

6. Page 4, line 3.
Strike: "section"
Insert: "sections"
Following: "2"
Insert: "and 3"

-END-

Exhibit # 2
3-13-95

Amendment to HB 405

1. Page 3, line 2.
Following: "experience"
Insert: ", occupation,"

Exhibit # 4
3-13-95

AMENDMENTS TO HOUSE BILL 405

1. Page 3, following line 29.
Insert: "NEW SECTION. Section 3. Commissioner powers and duties -- application for registration -- reporting -- insolvency. (1) The commissioner shall develop forms for registration by an organization as a voluntary purchasing pool.

(2) An organization seeking to be registered as a voluntary purchasing pool shall make application to the commissioner. The commissioner shall register any organization as a voluntary purchasing pool upon proof of fulfillment of the qualifications provided in [section 2].

(3) The voluntary purchasing pool shall provide an annual report and financial statement to the commissioner with sufficient detail that commissioner may determine that:

(i) the operation of the pool is fiscally sound; and

(ii) the pool is not bearing any risk.

(4) The annual report of the voluntary purchasing pool shall disclose its total administrative cost in the same manner and on the same basis as insurers.

(5) If an examination of the annual report and financial statement indicates the voluntary purchasing pool fails to meet the qualifications of [section 2], the commissioner may suspend or revoke the registration of the purchasing pool. An action to suspend or revoke the registration of a voluntary purchasing pool is subject to the provisions of Title 2, chapter 4, part 6.

(6) If an examination of the annual report and financial statement indicates the voluntary purchasing pool is insolvent, the commissioner shall maintain jurisdiction of the purchasing pool for the purposes of protecting the interests of the pool participants, and the insurers writing the disability insurance."
Renumber subsequent sections.